

REMARKS

By the foregoing amendment, Applicants have added new dependent claims 64-65 with support being found in paragraphs [[0013] – [0014]; claims 4, 61 and 62 have been canceled and claims 1-2, 10-12, 14-17, 24-55, 59-60 and 63-65 are pending.

Applicants appreciate the courtesies extended by Examiner Goff in a telephonic interview to the undersigned's representative on March 24, 2008.

During the interview, the Examiner's comment in the last Office Action (bottom of page 15) that "The claims are not commensurate in scope with Applicants arguments as the claims do not preclude the balance layer including a thermosetting layer in addition to a thermoplastic layer" was discussed. Applicants' representative pointed out the language "consisting of" closed the claim to polymers other than thermoplastic. The Examiner was of the opinion that the preferred language "said balance layer consisting of a thermoplastic polymer..." would be commensurate in scope with Applicants previous arguments and overcame the prior art rejections of record.

Accordingly, by the foregoing amendment, Applicants have adopted the Examiner's suggested language and submit that the previous arguments, i.e. that "an asymmetrical upper and lower layer on opposite sides of a core" distinguish the stated rejections of Sjoberg et al (WO 02/47906) in view of any one of Mason (U.S. Patent No. 1,995,264), Berry et al. (U.S. Patent No. 4,406,455), or Karam (U.S. Patent No. 6,485,823) and Moebus (WO 01/21366 or U.S. Patent No. 6,761,961), as to claims 1, 2, 4, 10-12, 14-17, 30-32, 37-55, 59, 60 and 63; or further in view of Leukel et al. (U.S. Patent No. 4,770,916) as to claims 24-26, 29 and 33-36; or alternatively in further view of Nowell et al. (U.S. Patent No. 4,885,659) as to claims 24 and 27-29, under 35 U.S.C. §103(a) as the rationale of these rejections is that it would be obvious to duplicate (or

make symmetrical) the layers on the top and bottom sides of a core, has also been rebutted by the foregoing Amendment and Remarks.

Reconsideration of the rejection of claims 1, 2, 4, 10-12, 14-17, 29-32, 37-55, 59, 60 and 63 under 35 U.S.C. §103(a) as being unpatentable over Sjöberg et al in view of Min (U.S. Patent No. 6,093,473), Uebayashi et al. (U.S. Publication No. 2001/0011114) and Moebus is respectfully requested. The deficiencies of Sjöberg, Moebus have been discussed above.

Min uses a thermoplastic (polyvinyl chloride or "PVC") as the lower layer of "the abrasion resistant laminate" itself; col 8, lines 11-14. He does not use it as a balance layer on one side of a fiber board core with the other side containing a thermosetting laminate, as claimed. Accordingly, the combination of Min, Sjöberg et al. and Moebus still does not establish a *prima facie* case of obviousness. While Uebayashi may show elastomers are more recyclable than previous thermoplastic materials, such would still not provide the structure herein claimed.

The further rejection of claims 24-26, 29, and 33-36 under 35 U.S.C. §103(a) over Sjöberg, Min, Uebayashi and Moebus, applied above, and further in view of Leukel et al or alternatively in view of Nowell et al applied to claims 24 and 27-29 under 35 U.S.C. §103(a) still does not correct the foregoing deficiencies in the base rejection discussed above. Therefore, for all the foregoing reasons, withdrawal of the rejections and passage of the application to issue are respectfully requested.

The Obviousness Type Double Patenting Rejections

While various nonstatutory obviousness-type double patenting rejections have been made over references in view of pending U.S. Applications, the fact that the applications remain pending means that the claims therein are not yet patented. Thus, there can be no double patenting rejection of this application over those pending claims. The further fact that the claims

are pending means that they may still be amended thereby further distinguishing themselves from the instant claims. Moreover, the instant application is the first filed and further along in prosecution than the applications over which it is rejected. Accordingly, it is requested that the claims of this application be permitted to issue and the question of obviousness-type double patenting be considered in the pending U.S. Application Serial No. 11/129,497, after issuance of the instant claims.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 14-1437, under Order No. 8688.027.US0000.

Respectfully submitted,

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